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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 EXPERIENCE HENDRIX, LLC., a  
10 Washington Limited Liability Company; and  
11 AUTHENTIC HENDRIX, LLC., a  
12 Washington Limited Liability Company,

13 Plaintiffs,

14 v.

15 ELECTRIC HENDRIX, LLC., a Washington  
16 Limited Liability Company; ELECTRIC  
17 HENDRIX APPAREL, LLC., a Washington  
18 Limited Liability Company; ELECTRIC  
19 HENDRIX LICENSING LLC., a Washington  
20 Limited Liability Company; and CRAIG  
21 DIEFFENBACH, an individual,

22 Defendants.

C07-338Z

ORDER

23 THIS MATTER comes before the Court on plaintiffs' motion to compel discovery  
24 from defendant Craig Dieffenbach. Pursuant to a settlement among all parties, plaintiffs  
25 obtained a judgment against all defendants, including Mr. Dieffenbach, jointly and severally,  
26 in the amount of \$3.2 million. Suppl. Judgment (docket no. 127). Plaintiffs now seek an  
order requiring Mr. Dieffenbach to respond to twelve (12) interrogatories and fourteen (14)  
requests for production, primarily concerning his and his spouse's assets. Plaintiffs also wish  
to take Mr. Dieffenbach's deposition.

1 Plaintiffs' motion is brought pursuant to inter alia Rule 69, which provides in relevant  
2 part:

3 In aid of the judgment or execution, the judgment creditor . . . may obtain  
4 discovery from any person -- including the judgment debtor -- as provided in  
5 these rules or by the procedure of the state where the court is located.

6 Fed. R. Civ. P. 69(a)(2). Mr. Dieffenbach does not appear to dispute that, in accordance with  
7 Rule 69, plaintiffs may elect to proceed under Rules 26 through 37. See Evans v. Chicago  
8 Football Franchise Ltd. P'ship, 127 F.R.D. 492, 493 (N.D. Ill. 1989) ("This language [of  
9 Rule 69] clearly contemplates that plaintiff has a choice between using the federal discovery  
10 rules and using the practice of the state."). Mr. Dieffenbach's only response to plaintiffs'  
11 motion is that plaintiffs have not complied with the technical requirements of Washington's  
12 statutes governing proceedings supplemental to the execution of judgments. Although the  
13 Court agrees with Mr. Dieffenbach that plaintiffs have not taken all of the steps outlined in  
14 RCW 6.32.015, such failure does not defeat plaintiffs' motion because plaintiffs are not  
15 obligated to follow the state practice.

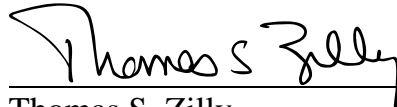
16 The Court concludes that, under the federal discovery rules, plaintiffs have properly  
17 propounded the interrogatories and requests for production at issue, serving them on  
18 Mr. Dieffenbach's attorney. See Fed. R. Civ. P. 5(b)(1); see also Fed. R. Civ. P. 33 & 34.  
19 The Court therefore DIRECTS Mr. Dieffenbach to provide responses to the interrogatories  
20 and requests for production within twenty (20) days after the date of this Order. Based on  
21 the current record, however, which indicates that plaintiffs have never attempted to depose  
22 Mr. Dieffenbach in the manner permitted by Rule 30, the Court declines at this time to  
23 compel a deposition. In addition, because plaintiffs elected, with respect to the  
24 interrogatories and requests for production, to proceed under the federal discovery rules, the  
25 Court will not treat plaintiffs' current motion as an application under state law, specifically  
26 RCW 6.32.010, for an order requiring a judgment debtor to appear before the Court or its  
appointed referee.

1 For the foregoing reasons, plaintiffs' motion to compel, docket no. 130, is GRANTED  
2 in part and DENIED in part.

3 IT IS SO ORDERED.

4 The Clerk is directed to send a copy of this Order to all counsel of record.

5 DATED this 28th day of October, 2009.

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8 Thomas S. Zilly  
9 United States District Judge  
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